

BILL OF RIGHTS 2002-03 ANNUAL REPORT

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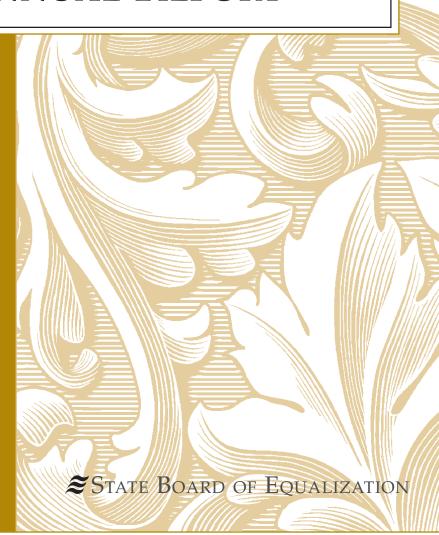
BILL LEONARD Ontario Second District

CLAUDE PARRISH Long Beach Third District

JOHN CHIANO Los Angeles Fourth District

STEVE WESTLY Sacramento State Controller

TIMOTHY W. BOYER Sacramento Interim Executive Director



TAXPAYERS' RIGHTS ADVOCATE OFFICE

California Board of Equalization

450 N Street, MIC:70 P.O. Box 942879, Sacramento, CA 94279-0070

Toll Free (888) 324-2798

FAX: (916) 323-3319

Jennifer L. Willis, *Advocate* (916) 324-2798

PROPERTY TAXES

Bob Reinhard (916) 323-2513

Laura Bowman-Dirrim (916) 445-8267

BUSINESS TAXES

Todd Gilman (916) 445-0218

Rhonda Krause (916) 445-8321

Letter to Executive Director

October 2003

Mr. Timothy W. Boyer Interim Executive Director

Dear Mr. Boyer:

The Taxpayers' Rights Advocate Office (TRA Office) staff and I are pleased to present the 2002-03 Property Taxpayers' Bill of Rights Annual Report for the Board's and your consideration. This report highlights our accomplishments over the past year, current issues in the process of solution development, and emerging issues with recommendations for consideration in the coming year.

Throughout the year we worked with the public and with the staff of the Property and Special Taxes and Legal Departments, State Controller's Office staff, county assessors and tax collectors, and other state and local property taxation officials. We identified trends and issues, resolved problems, strove to better serve our customers, and addressed concerns raised by taxpayers and their representatives. With the cooperation of the Property and Special Taxes Department and the Customer and Taxpayer Services Division, we employed educational strategies, including media, taxpayer outreach, and information for the Board's Web site to improve taxpayer understanding and voluntary compliance with the law.

This is my last property taxes report and I want to personally thank Bob Reinhard who has been the staff on property tax issues since inception of the Property Taxpayers' Bill of Rights. Bob, Laura Bowman-Dirrim, and all the TRA Office staff's devotion to conflict resolution has provided a voice for taxpayer expression. Due to their perseverance and with the assistance of Property Taxes and Legal Departments, Legislative Division, and the State Controllers Office Tax Defaulted Land Bureau staff, during my tenure as the Property Taxpayers' Advocate, the following changes to the Board's laws, policies and procedures were implemented:

- Extended the filing period for reduced assessment appeals applications from September 15 to November 30 if the assessor has not sent value notices by August 1.
- Identified the educational need and participated in development of Publication 30, Residential Property Assessment Appeals.
- Instituted provisions to reduce trickery of "assessment appeals mills" businesses.
- Assessment notices are now required to show both the taxable roll value and the factored base year value when a property's value is less than the factored base year value, that is, when a decline-in-value assessment has been made.
- Participated in changes to better inform disabled veterans of their property tax exemption rights.
- Added Frequently Asked Questions (FAQ's) to the Board's Web site.
- Made specific recommendations to the board with respect to standardizing interest rates applicable to escape assessments and refunds of property taxes, and statutes of limitations, so as to place property taxpayers on an equal basis with taxing authorities.

TRA Office staff looks forward to continuing to work with local government officials, the public, and board staff to identify trends and issues, develop viable solutions, and strive to better serve our customers.

Respecfully submitted,

Jennifer L. Willis,

Property Taxpayers' Advocate

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TAXPAYERS' RIGHTS ADVOCATES OFFICE

In January 1989, the original Taxpayers' Bill of Rights was established to ensure that the rights, privacy, and property of California taxpavers are adequately protected in the assessment and collection of sales and use taxes. Effective January 1993, the Special Taxes Bill of Rights was established, expanding the statutory authority of the Bill of Rights to the special taxes programs administered by the Board of Equalization (BOE). As the Board accepts responsibility for new special taxes and fee programs, the protections of the Bill of Rights are added for each program. Since these programs primarily impact business owners, they will be referred to generally as the Business Taxpayers' Bill of Rights, covering both sales and use taxes and the various special taxes and fees.

The Morgan Property Taxpayers' Bill of Rights, effective January 1, 1994, is found in section (§) 5900 et seg. of California's Revenue and Taxation (R&T) Code. It governs the assessment, audit, and collection of property taxes, with the goal to ensure that taxpayers receive fair and uniform treatment under the property taxation laws. It requires the Board to designate a "Property Taxpayers' Advocate" (PTA) independent of, but not duplicative of, the Board's existing property tax programs, to report directly to the Board's Executive Director. The PTA is to be specifically responsible for reviewing property tax matters from the viewpoint of the taxpayer, and to review, report on, and recommend to the Board's Executive Director any necessary changes which will help implement the Bill of Rights provisions.

The board established the Taxpayers' Rights Advocate Office (TRA Office) to address both business taxes and property taxes issues. Appendix A, on page 25 provides an explanation of the differences between the Business and Property Taxpayers' Bills of Rights.

The TRA Office:

- facilitates resolution of taxpayer complaints or problems;
- monitors various Board tax and fee programs for compliance with the Taxpayers' Bill of Rights;
- recommends new procedures or revisions to existing policy to ensure fair and equitable treatment of taxpayers;
- participates on various task forces, committees and public forums; and
- holds mandated Taxpayers' Bill of Rights hearings to provide the public, county assessors, and other local agency representatives with an opportunity to express their concerns, suggestions and comments to the Board Members.

The TRA Office generally assists taxpayers who have been unable to resolve a matter through normal channels, when they want information regarding procedures relating to a particular set of circumstances, or when there appears to be rights violations in the property taxes, audit or compliance areas. Taxpayers also call to convey their frustration, seeking assurance or confirmation that Board staff is correct or local county action is lawful and just.

In cases where the law, policy, or procedures do not allow any change to the staff action but a change appears justified the TRA Office is alerted to a potential area that may need clarification or modification. Several past Taxpayers' Bill of Rights Annual Report suggestions, recommendations for policy or procedural changes, and legislative proposals have resulted from these types of contacts with taxpayers.

The TRA Office provides assistance to taxpayers, the county, and Board staff to facilitate better communication between parties and eliminate potential misunderstandings. Taxpayers are provided information on policies and procedures so they can be better prepared to discuss and resolve their issues.

STATUS OF IDENTIFIED ISSUES FROM LAST YEAR'S PROPERTY TAXPAYERS' BILL OF RIGHTS ANNUAL HEARING

Speakers at last year's annual hearings in Culver City and Sacramento identified the issues below, and, as a result of the Board's direction during the hearings, staff addressed them as follows.

Valuation of real property purchased at a tax sale — The taxpayers' property was encumbered with an access easement that limits development. The assessor's office had enrolled a value that was considerably greater than the purchase price.

After the hearing, a representative of the assessor's office said that they would reexamine the assessment. Subsequently, they inspected the property and reduced the assessed value to the purchase price.

Limit "Prop 13" inflation adjustments only to the value of the land — The taxpayer suggested that improvements depreciate in value; the only time the value of improvements would increase would be when there was new construction.

Taxpayer's suggestion would require legislative changes; R&T Code § 51 requires that the appraisal unit, including land and improvements, be considered when adjusting the value of locally assessed real property.

Reduce school bond assessments for active agricultural properties — Proposition 39, approved by the voters in November 2000, lowered the voting threshold for certain local school facilities bonds from two-thirds to 55%. The taxpayer pointed out that these facilities primarily benefit urban areas, or areas that are urbanizing, and stated that farmers do not directly benefit from the new facilities being constructed in order to handle this urbanization. The comments were not against public education, which the

speaker supported, but rather concerns that the public that they will serve should finance schools.

The taxpayer noted that the State has an interest in preserving agricultural properties, and asked that the Board propose legislation that would reduce, or eliminate, the negative effect of school bond assessments on land, improvements, and personal property that are used in active farming operations.

Proposition 39 was an Initiative Constitutional Amendment and Statute, put on the ballot by petition signatures. The California Farm Bureau Federation opposed it for reasons noted by the speaker. It amended Articles XIII a (Tax Limitation) and XVI (Public Finance) of the California Constitution, as well as § 47614 (Charter School Operation) of the Education Code. Changes, such as the one proposed by the speaker, would require further changes to the Constitution.

Value Restoration After a "Prop 8" Reduction in Value — The adjusted base year value of the taxpayer's property was reduced in the 1990's following declines in value. The taxpayer questioned the value restorations.

The Legal Department and the TRA Office met with the taxpayer and went over the documentation that was provided. We looked at possible changes in ownership scenarios that would have triggered a permanent reduction in value and advised the taxpayer of possible appeal strategies. We discussed the taxpayer's situation with the assessor's office.

Currently, the taxpayer has an appeal pending with the local board of equalization.

RECURRENT ISSUES, PAST RECOMMENDATIONS, AND SUGGESTIONS

Ten years ago, on September 8, 1993, The Morgan Property Taxpayers' Bill of Rights was chaptered. Senate Bill 143 — Chapter 387, Statutes of 1993, in effect January 1, 1994 — added Part 14 to Division 1 of the R&T Code. (The complete text of the law is in Appendix D.) The Legislature recognized that disputes and disagreements often arise as a result of misunderstandings or miscommunications, and felt that uniform practices of appraisal and assessment would be advanced by the proper assessment and collection of property taxes.

During the past ten years, we have answered taxpayers' questions and complaints, and reviewed, from the viewpoint of the taxpayer, property tax programs, paying particular attention to recurrent problems that we found. We have reported on these matters and recommended changes to administrative procedures, regulations, and laws.

Equalization and Assessment Appeals

Our most common issues over the past ten years related to appeals and equalization. In the first year, we recognized the need to improve the appeals application, Form BOE-305-AH. We started work on the project with the Property Taxes Department, and it was discussed by the public at our Property Taxpayers' Bill of Rights annual hearing. Work on this project led to recognition that the instructions on the form were not adequate for the typical layperson filing an appeal. Additionally, property owners needed guidance on making a presentation before an assessment appeals board. We identified the need for an assessment appeals publication. Property Taxes Department took the lead on this project and the result was Board Publication 30, Residential

Property Assessment Appeals. With changes in legislation, annual revision of the form and Publication 30 is necessary.

Also during our first year we heard complaints from the public and assessors that the final filing deadline for an assessment appeal of September 15 was too early. Where taxpayers did not receive a value notice, they might not learn of a value increase until after they received their tax bill in late October. Some assessors told us they didn't think this was fair to affected property taxpayers, since it essentially gave the impression that government was gaming the system. That is to say, the taxpayer receives a property tax bill with an increased assessment, and might realize that the assessed value was greater than the market value of the property, but it would be too late to do anything about it. We made several proposals over the years. With Board Member Chiang's help, Assembly Member Horton's Assembly Bill 645 was chaptered, effective January 1, 2002. The bill amended § 1603, changing the final filing date to November 30 if the assessor has not sent a value notice to all taxpayers in the county by August 1.

In the mid-90s some new businesses, so called "assessment appeals mills," were charging taxpayers to complete and file the application form — something any taxpayer could do at no cost in 57 counties. We received many complaints from taxpayers, that these "mills" were sending official-looking correspondence that tricked property owners into accepting their services. Along with several counties, we worked with Board Member Klehs in supporting Assembly Member Davis' Assembly

Bill 1178, providing examples and exhibits used in legislative hearings and press conferences. The bill passed, became effective January 1, 1998, and the complaints on this issue have ceased.

We assisted the Legal and the Property Taxes Departments in training local boards of equalization and assessment appeals boards in the mid-90s. Other activities that we supported include: 1) allowing assessors to make decline-in-value changes after the roll has been sent to the auditor-controller [R&T Code § 4831]; 2) allowing corrections to timely filed appeals applications [Rule 305]; and 3) increasing the maximum number of assessment appeals boards in a county from five to ten [R&T Code § 1621].

Declines in Value and Proposition 8 Value Restorations

The second most frequent area of public contact deals with value declines and restorations. Changes to R&T Code § 4831 allow the assessor to make decline-in-value corrections within one year of the assessment being corrected. Our proposal [1997's Senate Bill 1105] to change R&T Code § 619 effective January 1, 1999, was enacted, and assessment notices now show both the taxable roll value and the factored base year value when a property's value is less than the factored base year value, that is, when a decline-in-value assessment has been made.

We have prepared informational material for taxpayers that explains the law in R&T Code § 51 (a) and illustrates why the value of their real property may increase by more than two percent in a given year, though it will not exceed the base year value adjusted for inflation at a rate not to exceed two percent per year. See Appendix B — Issues from Propositions 13 & 8 and their Progeny.

"Prop 13" Excluded Transfers and Construction

There continue to be questions regarding the various reappraisal exclusions in Article XIIIA of the Constitution. Most exclusions require filing a claim form within a limited window of opportunity. The parent-child exclusion statute, R&T Code § 63.1 was amended, effective January 1, 1998, to provide for an unlimited filing period for prospective relief, if the property has not been transferred to a third party. This is similar to the relief available for the homeowners' exemption. However, there are still some exclusions — such as senior citizens, disabled persons, and eminent domain — where prospective relief is not possible. We will continue our efforts to standardize these reappraisal exclusion requirements, to allow an additional prospective-only benefit, where appropriate.

Manufactured Homes and Parks

We have worked with the Property Taxes Department in resolving assessment issues for manufactured homes [R&T Code § 5800, et seq.] and resident-owned mobilehome parks [R&T Code § 62.1 & 62.2]. This includes: attending county meetings and legislative hearings, reviewing the new manufactured homes and parks assessors' handbooks [AH 511], and working with taxpayers that have questions about their manufactured home or their mobilehome park.

Information and Education

Information and education remain one of our top priorities. We've worked with the media relations officer, Property and Special Taxes Department, county assessors, and others, to: 1) inform the public about important upcoming property taxes dates; 2) inform the public about law changes that might affect them; 3) identify and develop changes to Board publications, such as publications 17 Appeals Procedures, 29 California Property Tax — An Overview, 30 Residential Property Assessment Appeals, and 70 California Taxpayers' Bill of Rights; and 4) add property taxes "Frequently Asked Questions" ("FAQ's") to the Board's web site.

We also attend and give presentations at conferences of assessors, tax collectors, and taxpayer organizations. We meet separately with various assessors, tax collectors, auditor-controllers, and board clerks. As mentioned above, we assisted the Legal and Property Taxes Departments in presenting training to local boards of equalization and assessment appeals boards.

The Property and Special Taxes Department meets with California assessors and their staff and board clerks to review and approve forms for use in assessor and board offices. We participate in these discussions, reviewing the questions and instructions on forms from the taxpayers' viewpoint. We are particularly interested in whether the questions are necessary to California's system of property taxation, and whether the forms encourage or inhibit taxpayer compliance.

We are also encouraging county assessors' offices to provide customer service training for their staff. The Board's Customer and Taxpayer Services Division made a presentation at a California Assessors' Association conference, and offered to help the assessors provide training to their staff.

Sales of Tax Defaulted Property

Occasionally, we receive calls concerning the sale of a property for delinquent taxes. These calls usually result from a situation where the current taxes were paid, but there was a delinquency from prior years, and the tax collector was unable to contact the property owner.

We have discussed these situations with the State Controller's Tax Defaulted Land Bureau and worked with the Legislative Division in talking with legislators. Our goal is a solution that will help find and inform a delinquent taxpayer.

Disabled Veterans' Exemption

We worked with legislators' offices and others to update the value amounts of the exemption and to allow the immediate transfer of the benefit to a replacement property. We learned that veterans were not always aware of these benefits, so we also pursued efforts to publicize the exemption.

Special Assessments

We participated in discussions during the implementation of Articles XIII c and XIII d of the Constitution, which were adopted in 1996. We continue to get questions about benefit assessments, maintenance assessments, property related charges and fees, property-related services, special assessment taxes, special assessments, special benefits, special districts, and special taxes.

ACCOMPLISHMENTS

Two primary functions of the TRA Office are to:

- 1. Ensure fair and equitable treatment of all taxpayers in the assessment and collection of taxes.
- 2. Identify changes in policies, procedures, regulations, and statutes that will enhance taxpayer communication and compliance and improve the relationship between taxpayers and government.

As a result of specific contacts with taxpayers and local government authorities, suggestions are developed and considered. With the cooperation and assistance of Board staff, other state agencies, and county government officials, the following was accomplished this past year:

Assessment Appeals — A recent law change extending the filing period for an application for a reduced assessment resulted in questions from both taxpayers and assessors. The Property Taxes Department took the lead in answering these questions and the TRA Office fielded some of these questions. With the assistance of the Mass Communications Section, a press release was developed, explaining the changes and the effect they would have for a taxpayer considering an appeal.

Full Homeowners' Exemption for Land in a Resident-Owned Manufactured Homes Park — There were situations where owners of manufactured homes in a resident-owned park were not able to claim the full \$7,000 homeowners' exemption. This occurred in two situations, 1) when manufactured homes were assessed for less than \$7,000, and 2) when manufactured homes were not subject to the county property tax, because they were instead subject to the vehicle license fee. (In some resident-owned parks the land is not held in the name of the owner of the manufactured

home, but rather in the name of a corporation, and an ownership interest in the corporation includes the right to occupy a specific space in the park.) Any excess exemption amount not used for the manufactured home was not being applied towards the land, since the land was not in the name of the manufactured home owner.

Recent advice and decisions have clarified this issue; we believe that homeowners in these situations are now receiving their entitlement. We will continue to monitor this area.

Taxpayer Contacts — TRA Office responded to 183 individual property taxpayers. (See "Taxpayer Contacts with TRA Office" and Appendix C for more information about the contacts.)

Revision Efforts — The TRA Office participated with the Board's Property Taxes Department as they coordinated efforts to include industry representatives and county assessors in the revisions of various laws, rules, and handbooks.

Media Outreach — The TRA Office worked with the Mass Communications Section and the Media Relations Officer, using the media to inform taxpayers of various critical property taxes assessment dates and provided them with property taxes information throughout the year, including the new assessment appeals filing deadlines mentioned above.

CURRENT ISSUES

In coordination with program and legal staff, other state agencies, and local government officials, solutions are being developed to address the following issues:

Filing Periods for "Prop 13" Reappraisal Exclusions — Late Claims

— In the 25 years since the 1978 approval of Proposition 13, which added Article XIII A to California's Constitution, voters have ultimately approved fourteen ballot initiatives enacting propositions to amend Article XIII A. The statutes implementing these amendments, many of which exclude some properties from reappraisal following a change in ownership or new construction, all contain required filing deadlines.

Among the change in ownership and new construction exclusions is the ability to transfer a base year value from an original property to a replacement dwelling for persons over age 55 and severely disabled homeowners acquiring or building a new home.

The constitutional amendments required the Legislature to enact legislation that further defines and implements the exclusions. Most of the statutes require that the claim be filed within three years of the excludable event. If the claim is timely filed and the exclusion is granted, it takes effect from the date of the reappraisable event and the taxpayer may claim appropriate refunds for taxes paid on a higher assessed value. [See Chapter 2, "Change in Ownership and Purchase," of Part 0.5 of Division 1 of the R&T Code.]

For someone who is knowledgeable about these property tax benefits, three years may not seem like an unreasonable period of time to file a claim. However, through numerous phone calls and other contacts, the TRA Office, Property Taxes Department, and assessors have found that many homeowners were unaware of these special property tax savings opportunities. An example would be the 65-year old homeowner who sells one home and buys another dwelling for retirement, but doesn't learn of the exclusion until several years later. There is no provision allowing taxpayers who find themselves in this situation to make a late claim and at least receive the benefits in subsequent years.

There is an exception. In 1997 the parent-child and the grandparent-grandchild exclusions were amended to permit filing past the three-year period, allowing prospective relief where the property hadn't subsequently transferred to a third party. This change became effective January 1, 1998. The Board is required by law to track parent-child exclusions. The 1997 change has not resulted in any significantly increased administrative costs.

Queries and complaints continue to surface regarding the limited filing period for the other Prop 13 exclusions. Assessors forward calls to us, as do legislators. This past year, the Board proposed an amendment to R&T Code § 69.5, "Transfer of Base-Year Value to Replacement Dwelling," to allow prospective relief after the end of the regular filing. The language was included in Senate Bill 1062, introduced by the Senate's Committee on Revenue and Taxation, but was amended out of the bill due to revenue loss concerns. The Department of Finance opposed this item, risking a veto of the bill, which included many other provisions. We will work with the Legislative Division staff next year to meet these concerns and, if appropriate, develop language that will help these taxpayers.

Grandparent-Grandchild Exclusion — Not All Grandchildren Eligible —

Proposition 193, approved on March 26, 1996, added subsection (2) to subdivision

(h) of section 2 of Article XIII a of the California Constitution. R&T Code § 63.1 implements subsection (2) (h) and provides that certain transfers between grandparents and their grandchildren, as defined by this section, shall be excluded as a change in ownership. The grandparent-grandchild exclusion only applies if all the parents of the grandchild(ren) who qualify as children of the grandparent(s), as defined in section 63.1, are deceased as of the date of the change in ownership.

Proposition 193 was an extension of Proposition 58, which first added subdivision (h) to section 2 of Article XIII a when it was approved on November 4, 1986. It provides that certain transfers between parents and their children, as defined by the Legislature, shall be excluded as a change in ownership. For these exclusions, the Legislature determined in R&T Code § 63.1 that, in certain circumstances, "children" include adopted children, stepchildren, daughters-in-law, and sons-in-law.

The TRA Office and the Property Taxes Department have received calls from county assessors' offices requesting advice on the availability of the exclusion in situations where grandparents, assumed parental responsibility and raised their grandchildren. In cases like these, there is general agreement that the intent of Proposition 193 was to grant an exclusion, but the law, as written, doesn't permit it if the grandchildren were not formally adopted.

The broad definition of "children" benefits those claiming the parent-child exclusion, but it may work against the claimants of the grandparent-grandchild exclusion. The legislative advocates of Proposition 193 intended that it permit property to be transferred from grandparents to grandchildren in cases where both parents were deceased. This is not the case, however, since the broad definition of "parents" includes more than just birth and adoptive parents. Perhaps the absent birth parents had remarried, are

now deceased, but, a stepparent is still alive. Perhaps the children had never known their birth parents. The counties could not grant the grandparent-grandchild exclusion, because of the statutory definition of "parent" and "child" in R&T Code 63.1. Grandchildren would be unable to benefit from the exclusion while a relationship with either a stepparent or a parent-in-law, as defined by statute [R&T Code W 63.1 (c)], still exists; it continues to exist until terminated by divorce or, where the natural parent is deceased, until the stepparent or parent-in-law has remarried.

Work continues within the Board and with the California Assessors' Association to develop a legislative solution that will at least partly alleviate this problem.

Value Restorations and Proposition 8 Litigation — Uncertainties Remain —

The TRA Office continues to receive calls from persons interested in the decision in the Bezaire-Pool case in Orange County. Superior courts of other counties have reached decisions opposite that of the Orange County Superior Court. That is, they held that the two percent limitation on annual value increases, imposed by Article XIII a, applies only to base year value increases and not to increases in value, when the county assessor has enrolled the Proposition 8 value, i. e., the lesser fair market value. The case is still under appeal; oral arguments are currently scheduled for December before the court of appeal.

The TRA Office continues to explain the law and the conflicting courts' decisions to taxpayers, and advises them to file a claim for refund if they believe the application of the Bezaire-Pool decision to their property would result in a lowering of their assessed value. See Appendix B — Issues from Propositions 13 & 8 and their Progeny.

Assessor May Not Be Able To Reduce an Incorrect High Base Year Value — R&T Code § 51.5 requires the assessor to correct an error or omission in the determination of a base year value in any assessment year in which it is discovered, unless the error involves a value judgment. Errors or omissions resulting from the exercise of value judgment must be corrected within four years. However, on occasion, county assessors discover base year value judgment errors that would lower the taxpayers' base year value, but they are not discovered until four or more years after the base year value was established.

Upon making a correction permitted by section 51.5, an assessor may make escape assessments if the correction results in a higher base year value. However, the assessor may enroll escape assessments only within the periods provided by the applicable statutes of limitation.

Assessor Cannot Reduce Value After a Local Board of Equalization or Assessment Appeals Board Decision —

If a local board of equalization or assessment appeals board has established the assessed value, the county assessor cannot change it, the local board cannot re-hear it, and the taxpayer's only recourse is to file a claim for refund with the board of supervisors and, thereafter, file a refund action in superior court. Examples include situations where additional evidence of value may have been discovered after the board set the value. The problem occurs infrequently, but when it does, it seems fair to have a more expedient remedy available than filing a claim for refund with the board of supervisors and then filing an action in superior court.

"Double" Possessory Interest

Assessments — In some instances, state park rangers, CalTrans workers, and others pay property taxes on two homes for the same period of time, continuing to pay taxes on a home they have vacated. For instance,

park rangers who are required to live in state housing in the park where they are working may be transferred from one park to another. The ranger may have a possessory interest assessment for the next tax year on the home they lived in on the lien date, and a second possessory interest, along with a supplemental assessment, on the new home they moved to after the lien date. We will work with the Legislative and the Assessment Policy and Standards Divisions, to explore possible regulatory or statutory changes that will remedy this inequity in the future.

Late Supplemental Assessments —

Taxpayers should anticipate tax bills, and are liable whether or not they receive notice. Supplemental assessments fall outside the normal flow of the property taxes calendar, though. In situations where the county takes more than a year to process a supplemental assessment, and the property owners have sold the property and moved, they may not learn about the supplemental assessment for years. We will work with the California Assessors' Association, the State Controller's Office, and others, to identify possible solutions for this type of supplemental assessment problem.

Exclusion or Exemption Denial

Notification — Taxpayers have complained that they requested the transfer of a base year value or homeowners' exemption, but were never notified that the request had been denied. Because they did not receive a notice of denial, they assumed the exclusion or exemption had been granted. When they received the tax bill and discovered that they had not received the benefit, it may have been too late to request reconsideration or file an application for changed assessment for that year in order to obtain the full exemption or exclusion. The California Assessors' Association has offered to assist with developing an administrative, regulatory, or legislative solution. We will pursue this in the future.

EMERGING ISSUES

As a result of taxpayer contacts and review of issues, policies, procedures, and trends, both within the Board and at the local (county) level, the TRA Office recommends consideration of the following areas of opportunity to produce greater clarity and uniformity.

Tax-Defaulted Sales of Owner-Occupied **Homes** — The home of an elderly taxpayer, which he owned free-and-clear of any mortgages or trust deeds, was sold at a county tax sale because of delinquent property taxes. Although the current year's taxes had been paid, there was an unpaid delinquency that had been outstanding for more than five years. Consequently, the tax collector noticed the property for sale and attempted personal service of the notice of sale. Because the home was located in a gated community, the tax collector's agent could not accomplish personal service of the notice of sale, and instead, the notice of sale was posted in a public place, at the community gate. The homeowner never received notice of the pending sale, and the home was subsequently sold at the public auction.

There were several signals that, if noticed, might have triggered follow-up attempts to contact the homeowner, since the delinquency appeared to be an oversight. For instance: 1) The property was receiving the homeowners' exemption, an indication that the owner lived there. 2) The mailing address was the same as the property address, again indicating that the taxpayer lived on the property. 3) Tax bills were not being sent to a lender, indicating the taxpayer might own the property out right, and therefore have a stronger incentive to pay the delinquent taxes, which were minor when compared to the property value. 4) Taxes had been paid for the current and recent years — the delinquency was over five years old.

Since the sale, the local county tax collector has made suggestions that would improve the process of collecting some delinquent property taxes and delay the sale of some tax delinquent properties. The proposals include annually sending out a separate delinquency notice to certain taxpayers and attempting to arrange a pre-sale consultation with certain taxpayers prior to the sale of their property.

State Senator Jackie Speier proposed legislation, Senate Bill 663, that would revise notification requirements before the sale of a tax-defaulted owner-occupied home. The proposal would require additional notification attempts and could delay the sale for up to four more years.

Some property owners allow their taxes to become delinquent because the value of their property is less than the taxes owed — in these cases, adding additional steps to our system of conducting public auctions to satisfy delinquent property taxes through the sale of tax-defaulted property could become cumbersome, and the proceeds to be gained might be less than the costs of conducting the sale.

RECOMMENDATIONS:

Senator Speier's bill was not enrolled this year, but this is the first year of a two-year session; it could be approved next year. We will continue to work with the State Controller's Bureau of Tax Administration for solutions. The goal is to further protect the taxpayer without further burdening the county. We will seek procedural or standards changes that could be accomplished administratively at the local level.

Correcting a Supplemental Assessment Calculation — The supplemental assessment statutes, R&T Code § 75, et seq., do not address the situation where the appraised values are proper, but an error is

made in calculating the supplemental assessment. This issue arose where developers purchased land, notified the assessor that they would not be occupying or using the condominiums they were building [§ 75.12(a)(1)], built the condominiums, completed the construction, and sold the condominiums; this all occurred in a period of about six months following the lien date.

The land was appraised when it was purchased. The new construction was appraised when completed, but supplemental assessments were not issued since the developers had met the requirements for the "builders' exclusion." The property was reappraised when it sold, and a supplemental assessment was issued: it should have been based on the difference between the "raw" land value and the value of the condominium property at the time of sale. Instead, the calculations were based on the difference between the "raw" land value plus the value of the newly constructed condominium at the time of completion [which would have been the taxable value on the current roll if there hadn't been a "builders' exclusion" and the value of the condominium property at the time of sale [the new base year value].

The new property owners paid their supplemental assessment, and two years went by before the error was discovered. About a month before the end of the fiscal year, new supplemental bills were sent out, showing the amount that had already been paid as the "first installment," and the additional amount due as the "second installment." Confused and angry taxpayers called both the assessor and the tax collector; many said they could not come up with the additional amount due (averaging about \$1.000) on such short notice.

The assessments were valid, but the statutes are not specific regarding enrollment, due dates, and payments in this unique situation. The TRA Office, Assessment Policy and Standards Division staff, Legal Department staff, and the State Controller's Bureau of

Tax Administration worked together with the local assessor and tax collector to explain the assessment to taxpayers. The tax collector was also able to offer an installment payment plan to taxpayers.

RECOMMENDATION:

It may be necessary to amend the statutes, with the goal of providing better direction when errors like this occur in the future. We will work with other Board staff and the State Controller's office to address this issue.

Loss of Parent – Child Exclusion After Transfer to Third Party —

R&T Code § 63.1(e)(1)(B) states, in part, that a change in ownership shall not include "... transfers of real property between parents and their children... and... between grandparents and their grandchildren occurring... within three years after the date of the purchase or transfer of real property for which the claim is filed, or prior to transfer of the real property to a third party, whichever is earlier." [emphasis added]

Heirs usually hire an estate attorney, a real estate broker, a CPA, and/or a title company when selling inherited real property. However, the requirement to file for an exclusion on the inherited property prior to its sale is not widely known and may be overlooked, even by professionals. The exclusion cannot be granted unless a claim is filed in a timely manner prior to the transfer of the real property to a third party. Failure to do so can result in an expensive tax bill for the heirs, as the assessor is required to correct an error or omission when it is discovered and enroll up to four years of escape assessments. These often become financial hardship cases because they are unable to pay the tax and delinquent fees timely.

For purposes of transfers between parents and their children, section 63.1 was amended in 1990 in an attempt to eliminate retroactive property tax corrections where the person(s) filing the claim form, and otherwise eligible for the benefit, had al-

ready transferred the real property to a third party. It was recognized even then that a substantial number of taxpayers would inadvertently lose their right to the constitutional change in ownership exclusion, resulting in a bill for additional taxes after they had sold the property and possibly settled the estate. As predicted, this warning has come true.

The largest number of our contacts (11.5%) is dedicated to addressing the parent-child exclusion. A significant portion relates to these third party transfer problems. Several counties have commonly voiced their concern about the number of taxpayers denied this exclusion. Los Angeles, San Bernardino, San Diego, and San Mateo Counties estimated that three percent of parent-child transferees are not able to take advantage of this provision.

Los Angeles County reported a substantial reduction in the time spent resolving tax disputes after implementing the following strategy three years ago:

- 1. Public meetings with targeted groups to discuss property tax issues of common interest. Hold quarterly meetings with tax agents, escrow companies, contractors, developers, community leaders, churches, senior centers, as well as hosting a booth at trade shows and county fairs. Arrange to meet groups on weekends or before or after normal business hours. In all venues, pamphlets and material are handed out, discussions take place, questions are answered and suggestions for resolutions given by all parties.
- 2. Designate a Property Owners' Advocate who can impartially find solutions and confirm fairness of the county process and decisions. Taxpayers feel that their best interests are served when they can consult with a third party they trust, especially for those who can't afford an agent.

3. Create a community advisory panel consisting of representatives from the Board of Realtors, tax professionals, the legislature, escrow companies, a taxpayer association, the county's property owners' advocate and the mayor's office.

RECOMMENDATIONS:

- 1. Use LTA's and sessions at conferences to encourage counties to issue timely supplemental and escape assessments and identify any administrative or regulatory changes that would improve the process.
- 2. Promote designation of local property owners' advocate or ombudsman who can help taxpayers understand and/or resolve taxation problems. Investigate the success of counties that are doing this, and discuss the topic at conferences.
- 3. Provide customer service training for advocates, ombudsmen, and/or other staff members who have frequent public contact. The BOE can provide this training.
- 4. Include this and other recurring issues as frequently asked questions (FAQ's) on county Web sites.
- 5. Create a community advisory panel.
- 6. Target and work with local "interested parties" related to specific property taxation laws.
- 7. Identify areas of recurring disputes by collecting annual statistics, including the number of exclusions and denials.
- 8. Work with the Assessment Policy and Standards Division to issue a Letter to Assessors (LTA) that will describe the various filing periods for the § 63.1 (parent-child) exclusion; emphasize that it can be filed within six months after the mailing of a notice of supplemental or escape assessment, irrespective of whether the property has been transferred to a third party. The LTA could also address filing periods for other exclusions, such as § 69.5 (persons over the age of 55 and severely and permanently disabled persons).

9. Recommend legislation for consideration that would extend the filing period in subparagraph (C) of § 63.1 (e) (1) to one year.

Uniform adoption of these strategies will result in greater public awareness and compliance and reduced time spent solving disputes.

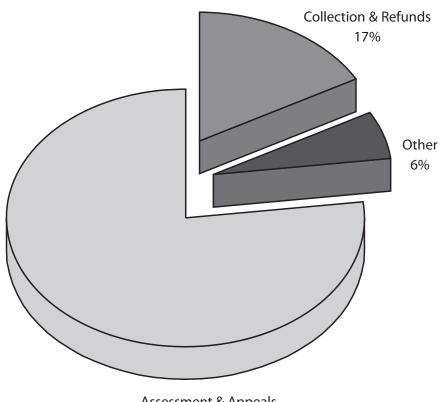
TAXPAYER CONTACTS WITH TRA OFFICE

The TRA Office assisted 183 individual property taxpayers and representatives last year. All contacts with taxpayers and their representatives are important and contribute to better understanding and improvement of the property taxation system. These contacts offer the opportunity to review a given

specific situation — a situation that is sometimes indicative of a more global statewide issue which needs to be addressed through changes in the law, rules, policies, or procedures.

The following chart provides a breakdown of last year's contacts.

Types of Issues



Assessment & Appeals 77%

Local county assessment offices (assessors, clerks for assessment appeals boards and local boards of equalization, auditor-controllers, and tax collectors) referred many of these contacts to the TRA Office. The table on the next page shows a breakdown of the type of issues we received. Issues involving the levy and collection of property taxes, redemption, and corrections, cancellations,

and refunds have decreased about 25 percent from four years ago. They were 17 percent of our caseload during 2002-03. These are issues we work with the State Controller's office, and/or refer to the appropriate county tax collector or auditor-controller.

ISSUE	1998-99	2002-03
General Property Taxation	4%	6%
Assessment & Exemptions	22%	26%
Miscellaneous Properties Types	2%	2%
"Prop 13" Related	34%	47%
Appeals	11%	2%
Collections Related	15%	9%
Corrections & Refunds	8%	8%
Assistance & Postponement	4%	0%

An increasing number of our contacts dealt with assessment and exemption issues (up 25± percent) or with Prop 13 related issues — contacts about base year values, declines in value, intra-family transfers, and senior citizen and disabled persons exclusions (a 40± percent increase). Contacts about appeals decreased considerably — down more than 80 percent.

These trends are not surprising. The appeals form, including the instructions, has improved, and the publication of "Residential"

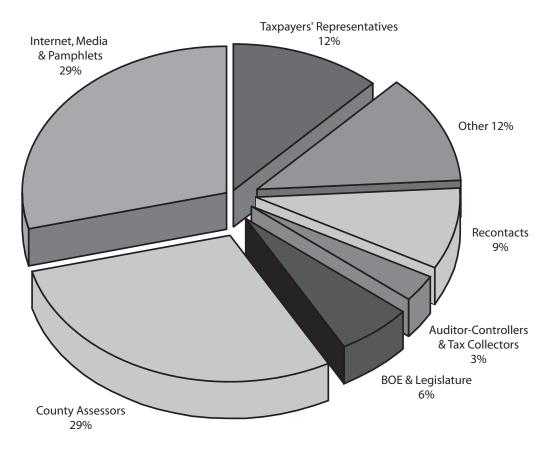
Property Assessment Appeals" has served to answer questions and inform taxpayers of their rights and responsibilities.

At the same time there is confusion about the many Prop 13 exclusions, and an increasing number of taxpayers are discovering that if they'd only known, they might have qualified for the transfer of a lower base year value. And there is uncertainty about the constitutionality of R&T Code § 51 while the Bezaire-Pool case is on appeal in Orange County.

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The following chart shows the sources of referrals to TRA Office:

Sources of Referrals



Sometimes the assessor, tax collector, or auditor-controller's office will refer the taxpayer to the TRA Office so taxpayers and/ or their representative(s) are provided an unbiased independent review of their situation. On a few occasions, the person calling was concerned about the fairness of treatment he or she received from the assessment office(s). The officials in charge of these offices are concerned with taxpayer service, and the potential lack of professional treatment, so they are very anxious to correct perceived inadequacies. When they refer someone to the TRA Office (or when a contact calls directly), the taxpayer will either receive an affirmation of the local policy or procedure, or the local official will

receive feedback from the TRA Office. In the latter case, the TRA Office might discuss possible improvements in the local official's operations to make them more "taxpayer friendly," or offer suggestions for the correction or resolution of errors and other problems.

Calls are also received from people who have learned about the TRA Office from the media, a library, or another state agency. They may be concerned about the fairness of the treatment they received from an assessment office. In addition to working with the person, the TRA Office contacts the office involved in order to help the taxpayer resolve the problem, when possible.

APPENDICES

A — Differences between the Business and Property Taxpayers' Bill of Rights

A major difference between the Business Taxpayers' Bill of Rights and the Property Taxpayers' Bill of Rights is in the resolution of taxpayer complaints. The BOE is the agency responsible for assessing and collecting business taxes. The Executive Director has administrative control over the functions, staff, and their actions. The Advocate reports directly to the Executive Director and is separate from the business and property taxes line programs.

When taxpayers' complaints about the BOE business taxes programs are received in the TRA Office, the Advocate and her staff have direct access to all the documents and Board staff involved in the taxpayers' issues. The Advocate and her staff are liaisons between the taxpayers and the Board program staff to solve the problems. In the area of levies, for example, the Advocate has the ability to stay collection. The Advocate can also order the release of levy, and the refund of up to \$1,500, upon finding that the levy threatens the health or welfare of the taxpayer or his or her spouse and dependents or family. If the Advocate disagrees with other actions of the staff and is unable to resolve the situation satisfactorily, the issue is elevated to the Executive Director for resolution. The Executive Director then has the authority to overturn the actions of the staff.

However, in responding to property taxpayers' complaints, the Advocate typically has no direct access to the taxpayers' documents. Each of the 58 counties maintains its own records. The Advocate and her staff work with county assessors, tax collectors, and auditor-controllers (most of whom are elected officials), plus clerks to the county boards of supervisors. The Morgan Property Taxpayers' Bill of Rights provides the Advocate with broad oversight, but there is no authority to mandate or overturn local actions. So far, however, the Advocate has been successful in soliciting cooperation and possible change with these local county officials.

B — Issues from Propositions 13 & 8 and their Progeny

In June 2003 "Prop 13" was 25 years old. This ballot initiative, approved by the voters on June 6, 1978, adding Article XIII a to the California Constitution, dramatically changed the system of real property taxation in California. The feature that most taxpayers noticed immediately was the reduction in the effective tax rate to one percent. Prior to the passage of Prop 13 the tax rate had varied statewide, but hovered around three percent. Prop 13 also provided for a "value at acquisition" property tax system, whereby a "base year value" is established when a property undergoes a change in ownership or new construction is completed, and annual increases in the base year value are limited to two percent.

After Prop 13 went into effect, the Legislature recognized that the law did not cover the situation where a property's value declined. The amendment tied value changes to the consumer price index, allowing increases up to two percent a year and reductions when the index went down. But it did not allow for reductions in assessed value in years in which the index increased, but a property's fair market value had declined. In order to remedy the situation, the Legislature passed a legislative constitutional amendment, SCA 67, which was numbered on the ballot as "Prop 8," which was approved by the voters on November 7, 1978. Prop 8 was implemented by R&T Code § 51 to provide that locally assessed real property is enrolled at the lesser of the inflationadjusted base year value or the current fair market value.

Proposition 8 — Base Year Value and Inflation Adjustments

Primarily due to the economy, property taxpayers in a majority of California's counties experienced declines (or no increases) in the value of their homes during the 1990s. This resulted, in some cases, in significantly

lowered assessments. Proposition 8 allowed the assessor to reflect declines in property value. The mechanics for these reductions are specified in R&T Code § 51, subdivision (a), which requires the assessor to annually enroll the lesser of the factored base year value or the current fair market value. The original language of Proposition 13 has led many taxpayers to believe that, regardless of the enrolled value, that value can be raised a maximum of only two percent per year. However, section 51 provides that the two-percent limitation applies only to the factored base year value and not a lower current fair market value where a property has been assessed pursuant to Prop 8. An example illustrates how this works.

Assume that a couple purchased a home in April 1989 (a peak year in many California real estate markets), for \$174,000. The purchase met the definition of an open market transaction, and the price indicated the fair market value of the property. The assessor enrolled a base year value of \$174,000. The following year the house was worth \$181,000, and the assessor applied the 2% inflation factor to the base year value and enrolled \$177,480, about \$3,500 less than the actual fair market value. The table on the next page shows these values for 1989 and 1990.

YEAR	(FACTORED) BASE YEAR VALUE	FAIR MARKET VALUE	TAXABLE ROLL VALUE	CHANGE IN ROLL (\$)	CHANGE IN ROLL (%)
1989	\$174,000	\$174,000	\$174,000		
1990	\$177,480	\$181,000	\$177,480	\$3,480	2%

Let's say that in 1991 the actual fair market value of the property declined \$5,000, to \$176,000 — this is \$5,030 less than the factored base year value of \$181,030. If the assessor's office were aware of the decline, the lesser value of \$176,000 would have

been on the roll that was sent to the auditor-controller. Let's assume the fair market value decreased again the next year, to \$158,000 — \$158,000 would have been enrolled for 1992. The following table illustrates these value changes:

YEAR	(FACTORED) BASE YEAR VALUE	FAIR MARKET VALUE	TAXABLE ROLL VALUE	CHANGE IN ROLL (\$)	CHANGE IN ROLL (%)
1991	\$181,030	\$176,000	\$176,000	(-\$1,480)	(-1%)
1992	\$184,650	\$158,000	\$158,000	(-\$18,000)	(-10%)

In 1993 the fair market value started increasing again, but through 1998 it was still less than the factored base year value, so the

taxable value continued to represent the lower fair market value. The continuation of the table provides further illustration:

YEAR	(FACTORED) BASE YEAR VALUE	FAIR MARKET VALUE	TAXABLE ROLL VALUE	CHANGE IN ROLL (\$)	CHANGE IN ROLL (%)
1993	\$188,343	\$162,000	\$162,000	\$4,000	3%
1994	\$192,110	\$169,000	\$169,000	\$7,000	4%
1995	\$194,396	\$170,000	\$170,000	\$1,000	1%
1996	\$196,554	\$186,000	\$186,000	\$16,000	9%
1997	\$200,485	\$198,000	\$198,000	\$12,000	6%
1998	\$204,495	\$201,000	\$201,000	\$3,000	2%

So in 1993, the base year value, adjusted for inflation, was \$188,343, but the value on the assessment roll, reflecting the marketplace, was \$162,000. In 1994 the fair market value of the property increases, to \$169,000, which is still less than the factored base year value, which has now increased to \$192,110. The assessor is still required to enroll the lesser of the factored based year value or the current fair market value; \$169,000 would be

the taxable value, a 4% increase over the prior year. In 1996 the fair market value increases to \$186,000, still less than the factored base year value, and the assessor would increase the taxable value to \$186,000 — a 9% increase over the prior year's value. The pattern continues — increases in the roll value may be greater than two percent, but the value enrolled is less than the factored base year value.

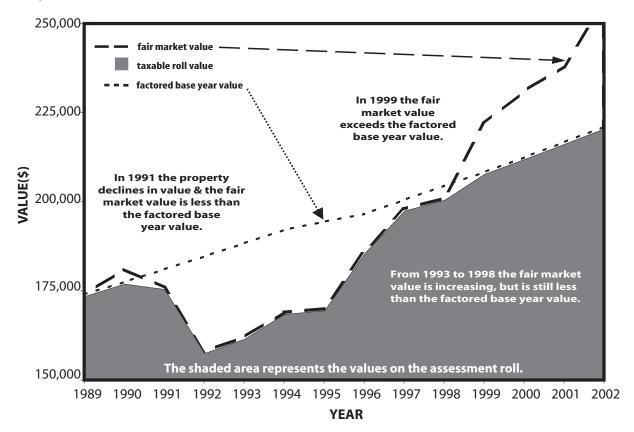
In 1999, the fair market value increased by ten percent, and is greater than the factored base year value for the first time in nine years; the assessor would enroll the lesser factored base year value. The continuation of the table provides further illustration through 2002:

YEAR	(FACTORED) BASE YEAR VALUE	FAIR MARKET VALUE	TAXABLE ROLL VALUE	CHANGE IN ROLL (\$)	CHANGE IN ROLL (%)
1999	\$208,284	\$222,000	\$208,284	\$7,284	4%
2000	\$212,450	\$231,000	\$212,450	\$4,166	2%
2001	\$216,699	\$238,000	\$216,699	\$4,249	2%
2002	\$221,033	\$256,000	\$221,033	\$4,334	2%

In 1999, the fair market value of \$222,000 is greater than the factored base year value of \$208,284. This pattern continues, and the assessor would enroll the lesser of the factored base year value or the fair market value. By 2002, the factored base year value of \$221,033 is approximately \$35,000 less than the \$256,000 fair market value.

Although the taxable value on the roll is restored to the factored base year value in 1999, the revenue that would have been

collected if there had not been the decline in value and the slow recovery is not regained. Over this 13-year period, the value of the property increased 47 percent, but the total increase in taxable value, however, was only 27 percent. Compounded, this change in taxable value works out to be only 1.9 percent annualized — less than the two-percent maximum in Prop 13. The chart below summarizes the information in the tables above:



In the preceding example which started on page 18, state law [R&T Code § 51 (a)] required the assessor to annually review a property's value once a temporary reduction in the assessed value has been granted as a result of a decline in its market value. The law provides that a property owner is entitled to the lesser of two values: 1) a property's base year value (typically established at the time of acquisition or new construction), annually adjusted for inflation not to exceed two percent, or 2) the current market value as of the lien date. (The lien date is January 1st.) Once reduced, the assessed value may be increased up to the adjusted base year value in any year, consistent with existing market conditions. The increase in value is limited only by the current market value as of the lien date, or by the factored Proposition 13 value, whichever is less.

As pointed out earlier ("Value Restorations and Proposition 8 Litigation" on page 8), there is confusion about the restoration of values after a Prop 8 reduction. Since we first identified this problem area in the 1990s, there has been one court case ordering one method, while others have upheld the Legislature's method in R&T Code § 51. We had hoped that taxpayer education would remove confusion. At this point, it might take a decision by the State Supreme Court or a Constitutional amendment to clarify things.

Change in Ownership Base Year Value Transfers and New Construction Exclusions

Starting in 1980 fourteen constitutional amendments have modified the reappraisal provisions of Prop 13 by excluding from change in ownership and completion of new construction, certain types of transfers and improvements:

■ Transferring a base year value to a replacement property for:

- homeowners over 55 years of age and severely disabled homeowners buying or building a new home;
- property owners acquiring property after being displaced by governmental action or eminent domain proceedings;
- victims acquiring a comparable property to one destroyed or substantially damaged by a disaster; and
- certain "qualified" contaminated property.
- Other excluded changes in ownership include transfers:
 - between spouses and between some former spouses;
 - of a principal residence between parents and their children;
 - of \$1 million of property between parents and their children; and
 - between grandparents and grandchildren in some cases.
- Excluded new construction includes:
 - work necessary to comply with local seismic safety ordinances;
 - seismic retrofitting improvements and improvement utilizing earthquake hazard mitigation technologies;
 - fire detection & extinguishing systems and fire-related egress improvements;
 - active solar energy systems;
 - improvements for the purpose of making a building more accessible to certain disabled persons; and
 - victims constructing a property comparable to one destroyed or substantially damaged by a disaster.

These exclusions all have one thing in common — they prohibit a reappraisal after an event that would have otherwise triggered a reappraisal under Prop 13, as passed in 1978. However, they differ in application. For instance, many require filing a claim within three years, but some allow the filing of a late claim for prospective only relief.

Intra-county transfers of base year values are allowed, but only under certain circumstances. Some forms of disaster relief require a damage or destruction resulting from Governor-declared disaster and others don't. Value, use, or age might determine thresholds for the exclusion.

These different criteria — a multitude of special circumstances excluding properties from reappraisal — are difficult for the assessors' offices to administer. They are even more difficult for a homeowner to understand. The TRA Office will work with the California Assessors' Association, the Legislative Department, and the Property and Special Taxes Department over the next few years to propose legislative changes, where appropriate, to standardize the features of these statutes, as well as identifying and providing continued taxpayer education.

Proposition 13's Legacy

California, like the other 49 states, had collected property taxes based upon an ad valorem ("according to value") assessment system. Property was (theoretically) assessed as its fair market value each year, and local governments (like counties, cities, and school districts) raised or lowered the tax rate in order to collect the taxes that were needed. This effective tax rate was the ratio between the value of the property in the district, city, or county and the property tax revenue budgeted by that district, city, or county. This changed in 1978.

Two major changes have already been discussed:

- The effective tax rate was reduced to one percent.
- Real property could only be reappraised when it transferred (a change in ownership or purchase) or was improved (new construction). Property that didn't transfer and wasn't improved kept it's March 1, 1975, value as a "base." When property

transferred or was improved the assessor would reappraise the property and establish a new base. In between reappraisal events the assessor would increase the value for inflation using a rate based upon the consumer price index, but the rate could not exceed two percent.

Other changes were not immediately noticeable. The State had a revenue surplus, and after Prop 13's passage, the State stepped in and used the State surplus to assist local government, and in particular the schools. An opportunity was missed to 1) change the way local government was funded and 2) consider the need for the services they provide, according to A. Alan Post, who headed the California Legislative Analyst's office until he retired in 1977. In addition to property related services — fire and police, streets and sewers — the property tax also funded education, welfare and health care, and the court systems. With the State stepping in, the incentive to reform where government spent money, and how they funded those expenditures, was missing.

Eventually the State surplus shrunk and disappeared, and State government began suffering revenue shortages. They stopped assisting local government, and this left the counties struggling for ways to fund mandated services, including the welfare system and schools. The public cannot always understand why Prop 13 seemed to work in 1980 — services weren't being cut — but doesn't work now — the schools don't have enough money, roads are deteriorating, parks aren't being maintained, etc.

Another problem some members of the public have trouble accepting — nearly identical properties, sitting side-by-side, have completely different property tax burdens. The U.S. Supreme Court has upped the constitutionality of the value at acquisition provisions of Prop 13. But the taxpayer who purchased the condominium for \$100,000 in 1979 has trouble accepting that she's paying

twice as much property taxes for the same amount of services as her neighbors, who purchased their condominium for \$50,000 in 1976.

Although the largest initial impact of Prop 13 for taxpayers was the reduction in the effective tax rate, there was a different impact on the operation of an assessor's office. Previously, most counties had been appraising the entire county on a cyclical basis, perhaps dividing the county into four, five, or six areas and concentrating on a different area each year. After Prop 13, they would only be appraising properties where there had been a change in ownership or new construction. Instead of gathering data for the area they would be working, and using that data for every property in that area, they would have to gather data all over the county, and apply it to only those properties in the county where a change in ownership or new construction occurred.

It cannot be denied that Prop 13 reduced property taxes and local government revenues. Other results and inequities are arguable — some claim that the property tax burden has shifted, that homeowners cannot afford to move, that local government is replacing taxes with fees, that the level of government service has declined. Those desiring more information on the subject would do well to start with two papers, already dated, presented in association with the California Research Bureau: "Local Government Revenue & Expenditures Since Proposition 13: A Historical Primer", by Roger Dunstan (CRB-93-006, August 1993), and "Local Government Finances Since Proposition 13: An Historical Primer", by Helen C. Paik (CRB-95-007, November 1995). They summarize, mostly through the use of charts, the major changes in the source of funding for cities and counties, and the areas where these funds are spent. More information is available at www.library.ca.gov/html/statseg2.cfm.

C — Table of Contacts Received, by County and by Office

Appeals &

County	Assessor	Equalization Boards	Tax Collector	Auditor-Controller	Other	TOTAL
Alameda	2		1	1		4
Calaveras			1			1
Contra Costa	2		1			3
Del Norte	2					2
El Dorado	2					2
Fresno	1					1
Humboldt	2					2
Inyo	2					2
Kings	1					1
Los Angeles	12		6			18
Madera	1					1
Marin	5					5
Mendocino	3		1			4
Mono	3					3
Monterey	2					2
Orange	5		2			7
Placer	4					4
Riverside	10					10
Sacramento	6				1	7
San Bernardino	6				•	6
San Diego	16		7			23
San Francisco	10		1			11
San Joaquin	1					1
San Luis Obispo	2					2
San Mateo	5		4			9
Santa Barbara	5					5
Santa Clara	7		1			8
Santa Cruz	,	1	•			1
Shasta	3	'				3
Sierra	1					1
Siskiyou	1					1
Solano	5					5
Sonoma	3		2			5
Stanislaus	1		1			2
Sutter	3		'			3
Tuolumne	2					2
Ventura	1		2			3
Yolo	2					2
Unknown					1	1
Statewide ¹			1		1	1
BOE ²			ı		4	4
FTB/SCO ³					4	4
Bill of Rights ⁴					1	1
	130		21	1		
TOTALS:	139	1	31	1	11	183

¹These were questions or issues that went beyond any particular county.

²Property Taxes Department contacts included questions about mapping and timber taxes.

³Typically, these were questions about tax sales, payment plans, or property tax assistance.

⁴Questions about the Morgan Property Taxpayers' Bill of Rights.

D — The Morgan Property Taxpayers' Bill of Rights

[Revenue and Taxation Code Sections]

5900. This part shall be known and may be cited as "The Morgan Property Taxpayers' Bill of Rights."

5901. The Legislature finds and declares as follows:

- (a) Taxes are a sensitive point of contact between citizens and their government, and disputes and disagreements often arise as a result of misunderstandings or miscommunications.
- (b) The dissemination of information to taxpayers regarding property taxes and the promotion of enhanced understanding regarding the property tax system will improve the relationship between taxpayers and the government.
- (c) The proper assessment and collection of property taxes is essential to local government and the health and welfare of the citizens of this state.
- (d) It is the intent of the Legislature to promote the proper assessment and collection of property taxes throughout this state by advancing, to the extent feasible, uniform practices of property tax appraisal and assessment.

5902. This part shall be administered by the board.

5903. "Advocate" as used in this part means the "Property Taxpayers' Advocate" designated pursuant to Section 5904.

- 5904. (a) The board shall designate a "Property Taxpayers' Advocate." The advocate shall be responsible for reviewing the adequacy of procedures for both of the following:
 - (1) The distribution of information regarding property tax assessment matters between and

- among the board, assessors, and taxpayers.
- (2) The prompt resolution of board, assessor, and taxpayer inquiries, and taxpayer complaints and problems.
- (b) The advocate shall be designated by, and report directly to, the executive officer of the board. The advocate shall at least annually report to the executive officer on the adequacy of existing procedures, or the need for additional or revised procedures, to accomplish the objectives of this part.
- (c) Nothing in this part shall be construed to require the board to reassign property tax program responsibilities within its existing organizational structure.

5905. In addition to any other duties imposed by this part, the advocate shall periodically review and report on the adequacy of existing procedures, or the need for additional or revised procedures, with respect to the following:

- (a) The development and implementation of educational and informational programs on property tax assessment matters for the benefit of the board and its staff, assessors and their staffs, local boards of equalization and assessment appeals boards, and taxpayers.
- (b) The development and availability of property tax informational pamphlets and other written materials that explain, in simple and nontechnical language, all of the following matters:
 - (1) Taxation of real and personal property in California.
 - (2) Property tax exemptions.
 - (3) Supplemental assessments.

- (4) Escape assessments.
- (5) Assessment procedures.
- (6) Taxpayer obligations, responsibilities, and rights.
- (7) Obligations, responsibilities, and rights of property tax authorities, including, but not limited to, the board and assessors.
- (8) Property tax appeal procedures. 5906. (a) The advocate shall undertake, to the extent not duplicative of existing programs, periodic review of property tax statements and other property tax forms prescribed by the board to determine both of the following:
 - (1) Whether the forms and their instructions promote or discourage taxpayer compliance.
 - (2) Whether the forms or questions therein are necessary and germane to the assessment function.
 - (b) The advocate shall undertake the review of taxpayer complaints and identify areas of recurrent conflict between taxpayers and assessment officers. This review shall include, but not be limited to, all of the following:
 - (1) The adequacy and timeliness of board and assessor responses to taxpayers' written complaints and requests for information.
 - (2) The adequacy and timeliness of corrections of the assessment roll, cancellations of taxes, or issuances of refunds after taxpayers have provided legitimate and adequate information demonstrating the propriety of the corrections, cancellations, or refunds, including, but not limited to, the filing of documents required by law to claim these corrections, cancellations, or refunds.
 - (3) The timeliness, fairness, and accessibility of hearings and

- decisions by the board, county boards of equalization, or assessment appeals boards where taxpayers have filed timely applications for assessment appeal.
- (4) The application of penalties and interest to property tax assessments or property tax bills where the penalty or interest is a direct result of the assessor's failure to request specified information or a particular method of reporting information, or where the penalty or interest is a direct result of the taxpayer's good faith reliance on written advice provided by the assessor or the board.
- (c) Nothing in this section shall be construed to modify any other provision of law or the California Code of Regulations regarding requirements or limitations with respect to the correction of the assessment roll, the cancellation of taxes, the issuance of refunds, or the imposition of penalties or interest.
- (d) The board shall annually conduct a public hearing, soliciting the input of assessors, other local agency representatives, and taxpayers, to address the advocate's annual report pursuant to Section 5904, and to identify means to correct any problems identified in that report.

5907. No state or local officer or employees responsible for the appraisal or assessment of property shall be evaluated based solely upon the dollar value of assessments enrolled or property taxes collected. However, nothing in this section shall be construed to prevent an official or employee from being evaluated based upon the propriety and application of the methodology used in arriving at a value determination.

5908. Upon request of a county assessor or assessors, the advocate, in conjunction with

any other programs of the board, shall assist assessors in their efforts to provide education and instruction to their staffs and local taxpayers for purposes of promoting taxpayer understanding and compliance with the property tax laws, and, to the extent feasible, statewide uniformity in the application of property tax laws.

- 5909. (a) County assessors may respond to a taxpayer's written request for a written ruling as to property tax consequences of an actual or planned particular transaction, or as to the property taxes liability of a specified property. For purposes of statewide uniformity, county assessors may consult with board staff prior to issuing a ruling under this subdivision. Any ruling issued under this subdivision shall notify the taxpayer that the ruling represents the county's current interpretation of applicable law and does not bind the county, except as provided in subdivision (b).
 - (b) Where a taxpayer's failure to timely report information or pay amounts of tax directly results from the taxpayer's reasonable reliance on the county assessor's written ruling under subdivision (a), the taxpayer shall be relieved of any penalties, or interest assessed or accrued, with respect to property taxes not timely paid as a direct result of the taxpayer's reasonable reliance. A taxpayer's failure to timely report property values or to make a timely payment of property taxes shall be considered to directly result from the taxpayer's reasonable reliance on a written ruling from the assessor under subdivision (a) only if all of the following conditions are met:
 - (1) The taxpayer has requested in writing that the assessor advise as to the property tax consequences of a particular transaction or as to the property taxes with respect to

- a particular property, and fully described all relevant facts and circumstances pertaining to that transaction or property.
- (2) The assessor has responded in writing and specifically stated the property tax consequences of the transaction or the property taxes with respect to the property.

5910. The advocate shall, on or before January 1, 1994, make specific recommendations to the board with respect to standardizing interest rates applicable to escape assessments and refunds of property taxes, and statutes of limitations, so as to place property taxpayers on an equal basis with taxing authorities.

- 5911. It is the intent of the Legislature in enacting this part to ensure that:
 - (a) Taxpayers are provided fair and understandable explanations of their rights and duties with respect to property taxation, prompt resolution of legitimate questions and appeals regarding their property taxes, and prompt corrections when errors have occurred in property tax assessments.
 - (b) The board designate a taxpayer's advocate position independent of, but not duplicative of, the board's existing property tax programs, to be specifically responsible for reviewing property tax matters from the viewpoint of the taxpayer, and to review and report on, and to recommend to the board's executive officer any necessary changes with respect to, property tax matters as described in this part.